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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

8/03/2004

Application Number: 09/682,988

Filing Date: November 5, 2001

Appellant(s): Bernd Gottselig et al.

MAILED

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GROUP 3600

Daniel H. Bliss
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/03/2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 03-04-03 has not been entered.

(5) Summary of Invention

The summary of invention contained in the brief is correct. However, it is noted, that summary has no references to specification or drawings. This is in contradiction to MPEP 1206, which states: *A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number and to the drawing, if any, by reference character.*

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The grouping of the claims is accepted, with claims 1-10 forming Group I; claims 11-16 forming Group II; claim 17 forming Group III and claim 18 forming Group IV.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

US 2002/0052666 A1	Fukatsu et al.	May 2, 2002
US 2003/0004965 A1	Farmer et al.	Jan. 2, 2003

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukatsu et al. (US 2002/0052666).

Fukatsu et al. teach a method and system for providing product environment information, comprising:

As per claim 1:

inputting restricted substances and recycle content data of parts supplied by a product supplier into a computer system of a product manufacturer [0009]; [0013]; [0038] – [0043]; [0075]; [0089]; [0094]; reviewing the inputted data and determining parts with banned or recycled content or substances over predetermined thresholds [0041] – [0043]; [0063]; [0075]; [0077]; [0084]; [0091]; reporting the determined parts to the supplier and product manufacture [0009]; [0038]; [0063]; [0084]; [0085]; [0093].

Fukatsu et al. do not specifically teach that the supplier of the supplied parts includes a supplier for a vehicle, and the product manufacturer is a vehicle manufacturer.

However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The “inputting” through “reporting” steps would be performed the same regardless of the type of the parts supplier or product manufacturer. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

As per claims 2-5, said method and system, wherein said step of inputting includes inputting, reviewing and saving data of restricted substances and recycle content [0089]; [0094].

As per claims 6-9, said method and system, wherein said step of reviewing includes analyzing inputted data and determining banned substances [0075]; [0077]; [0084]; [0091].

As per claim 10, said method and system, wherein said step of reviewing further comprises comparing the inputted data to a list of CAS numbers of substances with threshold content limits if there are no banned substances ([0058]; [0081] – [0082]).

As per claim 18, said system, comprising: a computer system for inputting restricted substances and recycle content data of parts supplied by a product supplier into a computer system of a product manufacturer [0009]; [0013]; [0038] – [0043]; [0075]; [0089]; [0094]; for reviewing the inputted data and determining parts with banned or recycled content or substances over predetermined thresholds [0063]; [0075]; [0077]; [0084]; [0091]; for reporting the determined parts to the supplier and product manufacture [0009]; [0038]; [0063]; [0084]; [0085]; [0093].

Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukatsu et al. in view of Farmer et al. (US 2003/0004965).

As per claim 11, Fukatsu et al. teach all the limitations of claims 11, except for determining whether there are any substances with threshold content limits.

Farmer et al. teach a method and system for hazard communication system, comprising entering material information into the system; and processing entered information to determine materials with threshold content limits ([0010] - [0012]; [0030]; [0040]; [0057] – [0058]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fukatsu et al. to include determining whether there are any substances with threshold content limits, as disclosed in Farmer et al., because it would enhance the analytic process for determining the compliance with the environmental laws and regulations.

As per claims 12-14, Farmer et al. teach said method and system, wherein said reviewing further includes determining a concentration of the substances by referencing their threshold content limits to the CAS numbers [0030]; [0040]. The motivation to combine Fukatsu et al. and Farmer et al. would be enhancing the analytic process for determining the compliance with the environmental laws and regulations.

As per claims 15-16, Farmer et al. teach said method and system, wherein said reviewing further includes determining a concentration of the *single substance* by referencing their threshold content limits to the CAS numbers [0030]; [0040]; [0057]; [0058]. The motivation to combine Fukatsu et al. and

Farmer et al. would be enhancing the analytic process for determining the compliance with the environmental laws and regulations.

As per claims 17, Fukatsu et al. teach said method and system, comprising:

inputting and saving restricted substances and recycle content data of parts supplied by a product supplier into a computer system of a product manufacturer [0009]; [0013]; [0038] – [0043]; [0075]; [0089]; [0094]; reviewing the inputted data and determining parts with banned or recycled content or substances over predetermined thresholds [0041] – [0043]; [0063]; [0075]; [0077]; [0084]; [0091]; reporting the determined parts to the supplier and product manufacture [0009]; [0038]; [0063]; [0084]; [0085]; [0093].

Fukatsu et al. do not specifically teach determining whether there are any substances with threshold content limits.

Farmer et al. teach a method and system for hazard communication system, comprising entering material information into the system; and processing entered information to determine materials with threshold content limits ([0010] - [0012]; [0030]; [0040]; [0057] – [0058]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fukatsu et al. to include determining whether there are any substances with threshold content limits, as disclosed in Farmer et al., because it would enhance the analytic process for determining the compliance with the environmental laws and regulations.

11) Response to Argument

Group I. Rejections Under 35 U.S.C. §103(a) regarding claims 1-10.

With respect to applicant's argument that Fukatsu et al. does not disclose a *vehicle manufacturing environment*, specifically registering restricted substances and recycle content data of *vehicle* supplier parts into a computer system of a *vehicle* manufacturer, the examiner points out that the specification and applicant arguments are silent why this method *can not be used* in other art different from vehicle manufacturing. The examiner maintains that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The "inputting" through "reporting" steps would be performed the same regardless of the type of the parts, type of the supplier or type of manufacturing environment. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

With respect to applicant's argument that Fukatsu et al. does not disclose registering *both* restricted substances and recycle content data of a product, the

examiner points out that in claim 1 step 2 there is no requirement that *both* restricted substances and recycle content data of a product be reviewed.

Furthermore, with respect to this argument, the examiner stipulates that Fukatsu et al. specifically teaches a parts raw material environmental information table reflecting existence/nonexistence of hazardous substances or allowance/prohibition of recycling [0056]; including recycled material content [0075]; [0077].

With respect to applicant's argument that Fukatsu et al. does not disclose *determining parts with banned or recycled content of substances over predetermined thresholds*, the examiner points out that Fukatsu et al. specifically teaches obtaining by a client (product manufacturer) parts environmental information including recycling rate, use or non-use of a recycled part, green certification rank, existence of prohibited or hazardous chemical substance, a substance name, a CAS number and information of law regulation about the corresponding chemical substance. If information is not sufficient, the client can send an environmental investigation request to part/material maker [0081]; [0084]; [0089]; [0091].

Group II. Rejections Under 35 U.S.C. §103(a) regarding claims 11-16.

With respect to applicant's argument that Fukatsu et al. does not disclose a *vehicle manufacturing environment*, specifically registering restricted substances and recycle content data of *vehicle* supplier parts into a computer system of a *vehicle* manufacturer, the examiner points out that the specification and applicant arguments

Art Unit: 3629

are silent why this method *can not be used* in other art different from vehicle manufacturing. The examiner maintains that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The “inputting” through “reporting” steps would be performed the same regardless of the type of the parts, type of the supplier or type of manufacturing environment. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

With respect to applicant’s argument that cited references fail to teach determining whether there are any substances with threshold content limits, comparing the inputted mass ratio against a specific TLC for CAS number, and sending the compliance or non/compliance notification to the parts supplier, the examiner points out that Fukatsu et al. teaches a method and system for managing environmental information about products, comprising: reviewing the inputted information related to parts and the materials said parts are made of, including information reflecting existence/nonexistence of hazardous substances or allowance/prohibition of recycling, recycled material content, and green certification rank [0056]; [0075]; [0077]; said reviewing is conducted against environmental law regulation information about the corresponding chemical substances [0084]. If it is necessary, the client can send an

environmental investigation request to part/material maker [0081]; [0084]; [0089]; [0091].

Farmer et al. teaches hazard communication system and method for managing environmental information as it pertains to the manufacture, use and handling of chemical products, and managing compliance issues regarding environmental laws and regulation, wherein inputted data related to products, including constitution information about substances or a single substance the products are made of, is reviewed and analyzed referencing to CAS information and composition information which includes an ingredient list containing minimum, maximum and typical concentrations of the ingredients [0001]; [0003]; [0012]; [0030]. The analysis step further includes comparing the components relating to a material-related data to a data list of regulated components and data table of values of component concentrations; and reporting step [0040].

The motivation to combine Fukatsu et al. and Farmer et al. would be enhancing the analytic process of determining environmental content of parts supplied in order to determine the compliance with the environmental laws and regulations.

Group III. Rejections Under 35 U.S.C. §103(a) regarding claim 17.

With respect to applicant's argument that Fukatsu et al. does not disclose a *vehicle manufacturing environment*, specifically registering restricted substances and recycle content data of *vehicle* supplier parts into a computer system of a *vehicle*

manufacturer, the examiner points out that the specification and applicant arguments are silent why this method *can not be used* in other art different from vehicle manufacturing. The examiner maintains that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The “inputting” through “reporting” steps would be performed the same regardless of the type of the parts, type of the supplier or type of manufacturing environment. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

With respect to applicant’s argument that Fukatsu et al. does not disclose registering *both* restricted substances and recycle content data of a product, the examiner points out that in claim 17 step 5 there is no requirement that *both* restricted substances and recycle content data of a product be reviewed.

Furthermore, with respect to this argument, the examiner stipulates that Fukatsu et al. specifically teaches a parts raw material environmental information table reflecting existence/nonexistence of hazardous substances or allowance/prohibition of recycling [0056]; including recycled material content [0075]; [0077].

With respect to applicant's argument that cited references fail to teach determining whether there are any substances with threshold content limits, comparing the inputted mass ratio against a specific TLC for CAS number, and sending the compliance or non/compliance notification to the parts supplier, the examiner points out that Fukatsu et al. teaches a method and system for managing environmental information about products, comprising: reviewing the inputted information related to parts and the materials said parts are made of, including information reflecting existence/nonexistence of hazardous substances or allowance/prohibition of recycling, recycled material content, and green certification rank [0056]; [0075]; [0077]; said reviewing is conducted against environmental law regulation information about the corresponding chemical substances [0084]. If it is necessary, the client can send an environmental investigation request to part/material maker [0081]; [0084]; [0089]; [0091].

Farmer et al. teaches hazard communication system and method for managing environmental information as it pertains to the manufacture, use and handling of chemical products, and managing compliance issues regarding environmental laws and regulation, wherein inputted data related to products, including constitution information about substances or a single substance the products are made of, is reviewed and analyzed referencing to CAS information and composition information which includes an ingredient list containing minimum, maximum and typical concentrations of the ingredients [0001]; [0003]; [0012]; [0030]. The analysis step further includes comparing the components relating to a material-related data to a data list of regulated

components and data table of values of component concentrations; and reporting step [0040].

The motivation to combine Fukatsu et al. and Farmer et al. would be enhancing the analytic process of determining environmental content of parts supplied in order to determine the compliance with the environmental laws and regulations.

Group IV. Rejections Under 35 U.S.C. §103(a) regarding claim 18.

With respect to applicant's argument that Fukatsu et al. does not disclose a *vehicle manufacturing environment*, specifically registering restricted substances and recycle content data of *vehicle* supplier parts into a computer system of a *vehicle* manufacturer, the examiner points out that the specification and applicant arguments are silent why this method *can not be used* in other art different from vehicle manufacturing. The examiner maintains that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The "inputting" through "reporting" steps would be performed the same regardless of the type of the parts, type of the supplier or type of manufacturing environment. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI:

(example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed.

With respect to applicant's argument that Fukatsu et al. does not disclose determining restricted substances or recycle content data of a product, the examiner stipulates that Fukatsu et al. specifically teaches a parts raw material environmental information table reflecting existence/nonexistence of hazardous substances or allowance/prohibition of recycling [0056]; including recycled material content [0075]; [0077].

With respect to applicant's argument that Fukatsu et al. does not disclose a system for *determining parts with banned or recycled content of substances over predetermined thresholds*, the examiner points out that Fukatsu et al. specifically teaches a system for obtaining by a client (product manufacturer) parts environmental information including recycling rate, use or non-use of a recycled part, green certification rank, existence of prohibited or hazardous chemical substance, a substance name, a CAS number and information of law regulation about the corresponding chemical substance. If information is not sufficient, the client can send an environmental investigation request to part/material maker [0081]; [0084]; [0089]; [0091].

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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IB
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